

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG (STAUNTON) DIVISION

In re:

BENJAMIN LEE REXRODE

Case No. **13-50964**

(Chapter 7)

Debtor(s)

**GEORGE I. VOGEL, II,
TRUSTEE IN BANKRUPTCY OF
BENJAMIN LEE REXRODE**

Plaintiff,

v.

Benjamin Lee Rexrode
P. O. Box 62
Bridgewater, Virginia 22812

ALSO NOTIFY:

Jeffrey A. Ward, Esquire
Franklin, Franklin, Denney & Ward
P. O. Box 1140
Waynesboro, Virginia 22980
Counsel for Debtor

Farmers & Merchants Bank
c/o Dean W. Withers, President & CEO
205 S. Main Street
Timberville, Virginia 22853

John N. Crist, Trustee
342 S. Main Street
Harrisonburg, Virginia 22801

Dean W. Withers, Trustee
Farmers & Merchants Bank
205 S. Main Street
Timberville, Virginia 22853

Glendon K. Gill, Trustee
West Johnson Street
Suite 215
Staunton, Virginia 24401

ALSO NOTIFY:

Dale A. Davenport, Esquire
Hoover & Penrod
342 S. Main Street
Harrisonburg, Virginia 22801
Counsel for Farmers & Merchants Bank

SunTrust Mortgage, Inc.

c/o Corporation Service Company, Registered Agent
c/o Beverley L. Crump, Registered Agent
1111 East Main Street
Richmond, Virginia 23219

ALSO NOTIFY:

SunTrust Mortgage, Inc.

1001 Semmes Avenue
Richmond, Virginia 23224

Rebecca W. Shaia, Trustee

1001 Semmes Avenue
Richmond, Virginia 23224

ALSO NOTIFY:

Andrew Todd Rich, Esquire

8100 Three Chopt Road
Suite 240
Richmond, Virginia 23229
Counsel for SunTrust Mortgage, Inc.

Jason L. Hamlin, Esquire

Brock & Scott, PLLC
484 Viking Drive
Suite 100
Virginia Beach, Virginia 23452
Counsel for SunTrust Mortgage, Inc.

Richard T. Homes, Treasurer

Augusta County
P. O. Box 590
Verona, Virginia 24482

Defendants

**MOTION BY TRUSTEE FOR AUTHORITY TO SELL
PROPERTY OF THE ESTATE PURSUANT 11 U.S.C. §363(b)**

George I. Vogel, II, Trustee of this case, moves for an order authorizing the Trustee to sell the below described property pursuant to 11 U.S.C. §363(b) and alleges as follows:

1. That on July 30, 2013 the Debtor filed a petition pursuant to Chapter 7 of the United States Bankruptcy Code.
2. Movant is the duly appointed and acting trustee in this case.
3. The Debtor's estate has an interest in the following real estate located in the County of Augusta, Virginia, which the Trustee requests authority to sell:

PARCEL A

All that certain tract or parcel of land with all improvements thereon and all rights, privileges and appurtenances thereto belonging, situated in North River District, Augusta County, Virginia, at the intersection of Springhill Road, Route 613, and Dudley Road, Route 745, designated and described as Tract 1 containing 1.096 acres on the plat entitled "Minor Subdivision Plat Tract 1 Portion of Parcel 11 Approximately 2 Miles Southwest of Centerville North River District Augusta County, Va.." dated June 17, 1999, prepared by Jerry L. Brunk, Land Surveyor, which plat is recorded in the Clerk's Office of the Circuit Court of Augusta County in Plat Book 1, Page 4082 and by reference made a part hereof.

PARCEL B

All that certain tract or parcel of land together with all improvements thereon and all rights, privileges, and appurtenances thereto belonging, situated in North River District, Augusta County, Virginia, on Route 613, containing 22.744 acres, more or less, identified as Parcel 18-11 on the Augusta County Tax Map, and being the residue of "Tract 1" acquired by Margaret Catherine Myers Rexrode by deed from Benjamin Franklin Myers, III and Margaret Catherine Myers Rexrode, Co-Executors of the Estate of Benjamin Franklin Myers, Jr., and Benjamin Franklin Myers, III and Margaret Catherine Myers Rexrode, dated June 7, 1999, recorded in the Clerk's Office of the Circuit Court of Augusta County in Deed Book 1426, Page 880, after deducting therefrom 1.096 acres conveyed to Benjamin Lee Rexrode by deed from Margaret Catherine Myers Rexrode, dated June 29, 1999, recorded in the aforesaid Clerk's Office in Deed Book 1137, Page 327.

4. The trustee proposes to sell the real estate in the following manner:
 - A. The sale of the property shall be subject to any liens, real estate taxes, claims and encumbrances.
 - B. The property shall be sold by private or public sale.
 - C. The asking price for Parcel A is \$189,000.00.
 - D. The asking price for Parcel B is \$195,000.00.
 - D. The identity of the purchaser(s) are unknown.
 - E. Terms and conditions of the sale are cash.
 - F. The time and date of the sale is unknown at this time.

5. The Trustee has determined that the following party may claim a security or other interest in Parcel A:

(1.) SunTrust Mortgage, Inc. is the beneficiary of a deed of trust securing it the payment of approximately \$135,000.00. The trustee under its deed of trust is Rebecca W. Shaia.

(2.) Augusta County real estate taxes that are accrued but unpaid constitute a lien against the aforesaid real estate.

6. The Trustee has determined that the following party may claim a security or other interest in Parcel B:

(1.) Farmers & Merchants Bank is the beneficiary of a deed of trust securing it the payment of approximately \$155,000.00. The trustees under its deed of trust are John N. Crist, Dean W. Withers and Glendon K. Gill.

(2.) Augusta County real estate taxes that are accrued but unpaid constitute a lien against the aforesaid real estate.

WHEREFORE, the Trustee requests the Court enter an order authorizing the Trustee to sell the property described herein in the manner and under the terms and conditions set forth. The Trustee does not intend to file a brief in connection with this motion but reserves the right to file a responsive brief if necessary.

Dated this 12th day of February, 2014.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

George I. Vogel, II, Trustee
Vogel & Cromwell, L.L.C.
P.O. Box 18188
Roanoke, VA 24014
(540) 982-1220
gvogel@vogelandcromwell.com

CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of February, 2014 mailed or electronically transmitted a copy of the foregoing Motion to the Debtor, to counsel for the Debtor, to all parties listed as Defendants, to all creditors as listed on the Debtor's mailing matrix and to the Office of the United States Trustee.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG (STAUNTON) DIVISION

In re:

BENJAMIN LEE REXRODE

Case No. **13-50964**

(Chapter 7)

Debtor(s)

**GEORGE I. VOGEL, II,
TRUSTEE IN BANKRUPTCY OF
BENJAMIN LEE REXRODE**

Plaintiff,

v.

Benjamin Lee Rexrode
P. O. Box 62
Bridgewater, Virginia 22812

ALSO NOTIFY:

Jeffrey A. Ward, Esquire
Franklin, Franklin, Denney & Ward
P. O. Box 1140
Waynesboro, Virginia 22980
Counsel for Debtor

Farmers & Merchants Bank
c/o Dean W. Withers, President & CEO
205 S. Main Street
Timberville, Virginia 22853

John N. Crist, Trustee
342 S. Main Street
Harrisonburg, Virginia 22801

Dean W. Withers, Trustee
Farmers & Merchants Bank
205 S. Main Street
Timberville, Virginia 22853

Glendon K. Gill, Trustee
West Johnson Street
Suite 215
Staunton, Virginia 24401

ALSO NOTIFY:

Dale A. Davenport, Esquire
Hoover & Penrod
342 S. Main Street
Harrisonburg, Virginia 22801
Counsel for Farmers & Merchants Bank

SunTrust Mortgage, Inc.
c/o Corporation Service Company, Registered Agent
c/o Beverley L. Crump, Registered Agent
1111 East Main Street
Richmond, Virginia 23219

ALSO NOTIFY:

SunTrust Mortgage, Inc.
1001 Semmes Avenue
Richmond, Virginia 23224

Rebecca W. Shaia, Trustee
1001 Semmes Avenue
Richmond, Virginia 23224

ALSO NOTIFY:

Andrew Todd Rich, Esquire
8100 Three Chopt Road
Suite 240
Richmond, Virginia 23229
Counsel for SunTrust Mortgage, Inc.

Jason L. Hamlin, Esquire
Brock & Scott, PLLC
484 Viking Drive
Suite 100
Virginia Beach, Virginia 23452
Counsel for SunTrust Mortgage, Inc.

Richard T. Homes, Treasurer
Augusta County
P. O. Box 590
Verona, Virginia 24482

Defendants

**NOTICE OF MOTION BY TRUSTEE FOR AUTHORITY TO
SELL PROPERTY OF THE ESTATE PURSUANT TO §363(b)**

George I. Vogel, II, the Trustee in this case has filed a motion for an order granting the Trustee authority to sell certain property of the estate pursuant to §363(b) of the Bankruptcy Code, as described below. A copy of the motion is attached to this notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the Trustee's motion to sell estate property pursuant to §363, or if you want the court to consider your views on the motion, then on or before 5:00 p.m. on March 17, 2014, you or your attorney must:

1. File with the court a written objection to the sale and a request for a hearing at:

WRITTEN OBJECTION AND REQUEST FOR A HEARING TO BE SCHEDULED SHOULD BE SENT TO:

Clerk, U. S. Bankruptcy Court
Harrisonburg Division
116 N. Main Street, Room 223
Harrisburg, VA 22802

2. If you mail your objection to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

3. You must also mail a copy to:

Office of the U. S. Trustee
First Campbell Square Building
210 First Street, Suite 505
Roanoke, VA 24011 and to

George I. Vogel, II, Trustee
P. O. Box 18188
Roanoke, Virginia 24014

4. Attend the hearing scheduled to be held on **MARCH 19, 2014 AT 10:00 A.M.** in the United States Courthouse, 116 North Main Street, Harrisonburg, VA 22802.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

The Trustee intends to sell the following property in the manner set forth:

The property being sold is the Debtor's interest in two parcels of real estate being described briefly as Parcel A containing 1.096 acres located in Augusta County, Virginia and Parcel B containing 22.44 acres, more or less, located in Augusta County, Virginia. The sale of the property shall be subject to any liens, real estate taxes, claims and encumbrances. Parcel A and Parcel B shall be sold by public or private sale. The asking price for Parcel A is \$189,000.00. The asking price for Parcel B is \$195,000.00. The identity of the purchaser(s) are unknown. The terms and conditions of the sale are cash. The time and date of the sale is unknown at this time. The anticipated benefit to the estate as a result of the sale of Parcel A is approximately \$43,000.00. The anticipated benefit to the estate as a result of the sale of Parcel B is approximately \$24,500.00.

The Trustee reserves the right to withdraw from the proposed sale should circumstances require. Requests for additional information should be directed to the Trustee.

Date: February 12, 2014

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE
P. O. Box 18188
Roanoke, VA 24014
(540) 982-1220

CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of February, 2014 mailed or electronically transmitted a true and correct copy of the foregoing Notice with motion attached to the Debtor, the Debtor's counsel, to all parties listed as Defendants, to all creditors as listed on the Debtor's mailing matrix and to the Office of the U.S. Trustee.

/S/ GEORGE I. VOGEL, II
GEORGE I. VOGEL, II, TRUSTEE

Vogel &
Cromwell, L.L.C.

Roanoke VA